

Federal Emergency Management Agency, DHS

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(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States District Court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint at the time it is filed.

(iii) That before commencing the action, the complainant shall give 30 days notice by registered mail to the Administrator, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: The alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court (Federal or State) of the United States.

PART 8—NATIONAL SECURITY INFORMATION

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8.1 Purpose.

8.2 Original classification authority.

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8.4 Mandatory declassification review procedures.

AUTHORITY: Reorganization Plan No. 3 of 1978, E.O. 12148 and E.O. 12356.

§ 8.1 Purpose.

(a) Section 5.3(b) of Executive Order (EO) 12356, "National Security Information" requires agencies to promulgate implementing policies and regulations. To the extent that these regulations affect members of the public, these policies are to be published in the FEDERAL REGISTER.

(b) This regulation provides public notification of the FEMA procedures

for processing requests for the mandatory review of classified information pursuant to section 3.4(d) of E.O. 12356.

[49 FR 24518, June 14, 1984, as amended at 49 FR 38119, Sept. 27, 1984; 50 FR 40006, Oct. 1, 1985]

§ 8.2 Original classification authority.

(a) The Administrator, Federal Emergency Management Agency (FEMA), has the authority to classify information originally as TOP SECRET, as designated by the President in the FEDERAL REGISTER, Vol 47, No. 91, May 11, 1982, in accordance with section 1.2(a)(2), E.O. 12356.

(b) In accordance with section 1.2(d)(2), E.O. 12356, the following positions have been delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY by the Administrator, FEMA:

(1) Deputy Administrator, FEMA

(2) Deputy Administrator, National Preparedness Directorate

(3) Director, Office of Security

(c) The positions delegated original Top Secret Classification Authority in paragraph (b) of this section, are also delegated Original Secret and Confidential Classification Authority by virtue of this delegation. The following positions have been delegated Original Secret and Original Confidential Classification Authority:

(1) Associate Director, State and Local Programs and Support.

(2) Regional Administrators.

(d) Any further delegation of original classification authority, for any classification level, will be accomplished only by the Director of the Federal Emergency Management Agency.

(e) The positions delegated ORIGINAL TOP SECRET CLASSIFICATION AUTHORITY in paragraph (b) of this section, are also delegated ORIGINAL SECRET and CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. The positions delegated ORIGINAL SECRET CLASSIFICATION AUTHORITY in paragraph (c) of this section, are also delegated ORIGINAL CONFIDENTIAL CLASSIFICATION AUTHORITY by virtue of this delegation. Any further delegation of original classification authority, for

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any classification level, will be accomplished only by the Administrator of FEMA.

[49 FR 24518, June 14, 1984 as amended at 51 FR 34605, Sept. 30, 1986; 53 FR 47210, Nov. 22, 1989; 56 FR 32328, July 16, 1991; 74 FR 15335, Apr. 3, 2009]

§ 8.3 Senior FEMA official responsible for the information security program.

The Director of the Security Division, has been designated as the senior official to direct and administer the FEMA information security program, in accordance with section 5.3(a), E.O. 12356.

[49 FR 24518, June 14, 1984]

§ 8.4 Mandatory declassification review procedures.

(a) All information classified by FEMA under E.O. 12356 or predecessor orders shall be subject to a review for declassification if such a review is requested by a United States citizen or permanent resident alien, a Federal agency or a State or local government.

(b) Requests for declassification review shall be submitted to the Security Division, Federal Emergency Management Agency, Washington, DC 20472. All requests shall be in writing and reasonably describe the information sought with sufficient clarity to enable the appropriate FEMA component to identify the information sought. Any requests that do not sufficiently identify the information sought shall be returned to the requestor and he or she shall be asked to clarify the request and/or provide additional information.

(c) If within 30 days the requestor does not respond to the agency's request for clarification or additional information, the FEMA Security Division shall notify the requestor that no further action can be taken on the request. If the requestor's response to the agency's request for clarification and/or additional information is inadequate, the Office of Security shall notify him or her that no further action will be taken until such time as the agency is provided with adequate information concerning the request. In addition, the agency's response will set forth the agency's explanation of the deficiencies of the request.

(d) Once a request meets the foregoing requirements for processing, it will be acted upon as follows:

(1) Receipt of all requests shall be acknowledged within ten (10) working days.

(2) FEMA action upon a request shall be completed within sixty (60) calendar days.

(e) The Director of the Security Division shall designate a FEMA component to conduct the declassification review. This will normally be the originating component. The designated program or staff office shall conduct the review and forward its recommendation(s) to the Security Division. Information no longer requiring protection under E.O. 12356 shall be declassified and released unless withholding is otherwise authorized under applicable law. When information cannot be declassified in its entirety, FEMA will make a reasonable effort to release those declassified portions of the requested information that constitute a coherent segment. If the information may not be released in whole or part, the requestor shall be given a brief statement as to the reason for the denial, a notice of the right to appeal the determination to the Administrator of FEMA and a notice that such an appeal must be filed within sixty (60) calendar days to be considered.

(f) If the request requires the rendering of services for which fees may be charged under 31 U.S.C. 9701, such fees may be imposed in accordance with the provisions of 44 CFR part 5, subpart C.

(g) The following procedures shall be followed when denials of requests for declassification are appealed:

(1) The Administrator shall, within fifteen (15) working days of receipt of the appeal, convene a meeting of the FEMA Information Security Oversight Committee (ISOC). Representation on the FEMA ISOC shall include the Director of the Security Division or his/her representative, a representative of the component that denied the original request, a representative from the Office of Chief Counsel, a representative from the Office of External Affairs and the Chief of Staff or his/her representative.